



20 MAY 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
P.O. Box 1450  
ALEXANDRIA, VA 22313-1450  
www.uspto.gov

Tim Tingkang Xia  
Morris, Manning & Martin, LLP  
1600 Atlanta Financial Center  
3343 Peachtree Road NE  
Atlanta, GA 30326

In re Application of  
SEEL, *et al.*

US Application No.: 10/520,954

PCT Application No.: PCT/EP2003/007513

Int. Filing Date: 10 July 2003

Priority Date: 12 July 2002

Attorney's File Reference: 14836-48177

For: ILLUMINATING DEVICE AND  
OPTICAL OBJECT-ANALYZING  
DEVICE

:  
:  
:  
: DECISION ON

:  
: PETITION UNDER

:  
: 37 CFR 1.137(b)  
:  
:

This decision is in response to applicants' "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 25 February 2004. The petition is **GRANTED**.

### **BACKGROUND**

On 10 July 2003, applicants filed international application PCT/EP2003/007513. The international application designated the United States and did claim priority to an earlier filed application. The deadline for paying the basic national fee in the United States was thirty months from the priority date, that is 12 January 2005. Applicant missed this deadline.

On 25 February 2005, applicant filed the instant petition for revival accompanied by, *inter alia*, a Transmittal Letter, the petition fee of \$1500 and the basic national fee of \$300.

An oath or declaration of the inventors required by 35 U.S.C. 371(c)(4) has not yet been received.

### **DISCUSSION**

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) a proper reply, (2) the petition fee required by law, (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995).

The submission of the basic national fee satisfies 37 CFR 1.137(b)(1). The payment of the petition fee satisfies the requirement under 37 CFR 1.137(b)(2). Applicant's statement in the petition that "[t]he entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" satisfies the requirements of 37 CFR 1.137(b)(3). A terminal disclaimer is not required because the application was filed after 08 June 1995, which satisfies the requirements of 37 CFR 1.137(b)(4). Therefore, the requirements for a grantable petition under 37 CFR 1.137(b) have been satisfied.

### CONCLUSION

The petition to revive the application abandoned under 37 CFR 1.137(b) is GRANTED as to the National Stage in the United States of America.

The application is being returned to the National Stage Processing Division of the Office of PCT Operations for continued processing, including the mailing of a Notification of Missing Requirements (PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) is required.



Craig Thompson  
PCT Legal Administration Detailee  
Office of PCT Legal Administration  
Telephone: 571-272-6094  
Facsimile: 571-272-0459



Boris Milef  
PCT Legal Examiner  
Office of PCT Legal Administration